

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ARKIL LIONKINGZULU,

ORDER

Plaintiff,
-vs-

12-CV-0845A(M)

PAUL JAYNE, Corrections Officer, et al.,

Defendants.

Plaintiff has filed a *pro se* complaint under 42 U.S.C. §1983 and the Court finds that the appointment of counsel, pursuant to 28 U.S.C. §1915(e)(1), is warranted at this time. This Court is required to see that all litigants receive proper representation of counsel under the criteria set forth in Cooper v. A. Sargent Co., 877 F.2d 170 (2d Cir. 1989), and Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986). In addition, courts have the inherent authority to assign counsel to represent private indigent litigants. *See In re Smiley*, 36 N.Y.2d 433, 438 (1975).

Additionally, each lawyer — especially those who are admitted to practice in federal court and who therefore are in a position to reap the benefits of such practice — has a professional obligation to provide *pro bono* services for the poor. *See* New York Rules of Professional Conduct, Rule 6.1. In addition, Rule 83.1(f) of the Local Rules of Civil Procedure provides as follows:

Every member of the bar of this Court who maintains, or whose firm maintains, an office in this District, shall be available upon the Court's request for appointment to represent or assist in the representation of indigent parties. Appointments under this Rule shall be made in a manner such that no Member shall be requested to accept more than one appointment during any twelve-month period.

It is in this spirit that the Court assigns Jacob J. Herstek, Esq. of Nixon Peabody LLP, 40 Fountain Plaza, Suite 500, Buffalo, New York 14202, *pro bono*, to faithfully and diligently represent plaintiff in this case.

The Clerk of the Court is directed to send to Mr. Herstek, together with a copy of this order, the Guidelines Governing Reimbursement from the District Court Fund of Expenses Incurred by Court Appointed Counsel.¹ The Chief Judge of the Court will also issue an Order directing PACER to waive its fees so pro bono counsel can access and print at no cost to him or his firm any other documents filed herein that he may need.

A Scheduling Conference is scheduled for **July 25, 2013 at 10:30 am**, before the undersigned at the United States Courthouse, Allegheny Courtroom, 6th Floor, 2 Niagara Square, Buffalo, New York 14202. Counsel for defendants shall arrange for plaintiff to have access to a telephone and plaintiff's legal papers at that time.

SO ORDERED

Dated: July 16, 2013



JEREMIAH J. McCARTHY
United States Magistrate Judge

¹ This information and the forms are also available on the Court's web site at the Attorney Information link from the home page located at: <http://www.nywd.uscourts.gov/pro-bono-program-district-court-fund>.